

REMARKS

The new Reissue Application Declaration present herewith is executed by Mr. Alan Leszinske, the present assignee of record of the entire right, title and interest in this application.

The submitted Declaration of Alan J. Leszinske in Support of Reissue Patent Application Serial No. 10/725,360 (this application) verifies the decision of the applicant to correct inventorship by way of reissue rather than certificate of correction.

To obtain a certificate of correction of inventorship under 35 U.S.C. 256 and 37 C.F.R. 1.324 the latter requires that the current named inventor, Garth Gobeli, provide a statement either agreeing to the change of inventorship or that he has no disagreement in regard to the change. It is believed that no such statement could be procured from Mr. Gobeli. The facts supporting this belief are recited in the Declaration of Alan J. Leszinske in Support of Reissue Patent Application Serial No. 10/725,360 appended to this Response. Confronted with the inevitable inability to obtain a statement from Mr. Gobeli, the decision was made to proceed to correct inventorship by way of reissue under 35 U.S.C. 251 and 37 C.F.R. 1.172.

MPEP §1481 provides:

“If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor’s statement is not required for a non-broadening reissue application to correct inventorship. See MPEP §1412.04.”

And MPEP §1412.04 provides:

“REISSUE AS A VEHICLE FOR CORRECTING INVENTORSHIP

Where the provisions of 35 U.S.C. 256 and 37 C.F.R. 1.324 do not apply, a reissue application is the appropriate vehicle to correct inventorship.”

This reissue application with the Declaration of the assignee submitted herewith fully complies with 35 U.S.C. 251 and 37 C.F.R. 1.172 and allowance thereof is respectfully requested.

Respectfully submitted,

CAHILL, VON HELLENS & GLAZER P.L.C.



William C. Cahill
Attorney for Applicant

Date

4/6/05

155 Park One
2141 E. Highland Avenue
Phoenix, Arizona 85016
Phone: (602) 956-7000
Fax: (602) 495-9475
E-mail: cahill@cvglaw.com

Our Docket No. 5899-RE-01